

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

|                     |   |                              |
|---------------------|---|------------------------------|
| GLEN EDWARD THOMAS, | ) |                              |
|                     | ) |                              |
| Plaintiff,          | ) |                              |
|                     | ) |                              |
| v.                  | ) | CASE NO. 1:19-CV-449-ECM-SMD |
|                     | ) | [WO]                         |
| LT. LEE PADGETT,    | ) |                              |
|                     | ) |                              |
| Defendant.          | ) |                              |

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

*Pro se* Plaintiff Glen Thomas filed this 42 U.S.C. § 1983 action on June 25, 2019. Defendant has since filed an Answer, Written Report and supplements, and supporting evidentiary materials denying Plaintiff's allegations. Docs. 19, 21, 23. On January 15, 2020, the Court instructed Plaintiff to file a response to Defendant's materials by January 30, 2020. Doc. 24. The Court cautioned Plaintiff that his failure to file a response would result in a recommendation this case be dismissed for failure to prosecute. *Id.* To date, Plaintiff has not filed a response to Defendant's materials or otherwise complied with the Court's January 15, 2020, Order.

A federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute or obey a court order. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962); FED. R. CIV. P. 41(b). The Eleventh Circuit has made clear that “dismissal is warranted only upon a ‘clear record of delay or willful contempt and a finding that lesser sanctions would not suffice.’” *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101,

102 (11th Cir. 1989) (per curiam) (emphasis omitted) (quoting *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985)). Here, the undersigned finds that Plaintiff has willfully failed to file a response in compliance with the Court's January 15, 2020, Order. And considering Plaintiff's disregard for orders of this Court, the undersigned further finds sanctions lesser than dismissal would not suffice in this case.

Accordingly, the undersigned Magistrate Judge RECOMMENDS this case be DISMISSED without prejudice.

It is ORDERED that **by February 1, 2022**, the parties may file objections to the Recommendation. The parties must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made. Frivolous, conclusive or general objections will not be considered by the District Court. This Recommendation is not a final order and, therefore it is not appealable.

Failure to file written objections to the proposed findings and recommendations in accordance with 28 U.S.C. § 636(b)(1) will bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waive the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. 11TH Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE this 18<sup>th</sup> day of January, 2022.

/s/ Stephen M. Doyle  
STEPHEN M. DOYLE  
CHIEF UNITED STATES MAGISTRATE JUDGE